

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BENNIE BRYANT, SR., #359946,

Petitioner,

v.

CASE NO. 2:09-CV-12824
HONORABLE PATRICK J. DUGGAN

DAVID BERGH,

Respondent.

/

**ORDER DENYING PETITIONER'S MOTION FOR EVIDENTIARY HEARING,
NEW TRIAL, AND/OR RETURN TO FREEDOM**

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on June 3, 2010.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

This matter is before the Court on Petitioner's one-page motion for evidentiary hearing, new trial, and/or return to freedom concerning his pending petition for a writ of habeas corpus. Petitioner provides no argument or facts in support of his motion.

Rule 8 of the Rules Governing Section 2254 Cases in the United States District Courts states, in pertinent part:

If the petition is not dismissed, the judge must review the answer, any transcripts and records of state-court proceedings, and any materials submitted under Rule 7 to determine whether an evidentiary hearing is warranted.

While Respondent has filed an answer to the petition and state court documents, those materials have not yet been thoroughly reviewed by this Court. Petitioner's request for an evidentiary hearing is therefore premature. Petitioner's requests for a new trial and/or release from custody are similarly premature given that the Court has yet to review his habeas claims. Accordingly, the Court **DENIES WITHOUT PREJUDICE** Petitioner's motion. If, after reviewing Respondent's answer and the state court record, the Court finds that an evidentiary hearing is required or that habeas relief should be granted, the Court will enter an appropriate order. Petitioner need not file additional motions concerning such matters.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

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